

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF PENALTY )  
ASSESSMENT AGAINST: )  
Polar Tankers, Inc. and ConocoPhillips )  
Company )

NOTICE OF PENALTY  
INCURRED AND DUE  
No. DE 3898

To: Polar Tankers, Inc.  
ConocoPhillips Company  
600 N. Dairy Ashford  
TN 6090  
Houston, Texas 77070

As owner or operator of the T/V POLAR TEXAS, IMO No. 7320394, on or about October 13, 2004:

The Department of Ecology (Department) has assessed a penalty against you\* in the amount of \$540,000 for violation of Washington laws and rules on or about October 13 through October 26, 2004.

**The penalty is based on the following Department findings:**

Around 1800 on October 13, 2004, the tank ship POLAR TEXAS completed unloading cargo at the US Oil terminal, let go her lines and was underway outbound to Valdez, Alaska. By 1900 she had arrived at navigation buoy "TC" and entered the northbound lane of the Puget Sound's traffic separation scheme. At that time she began a dirty ballasting operation that involved using its cargo pumps and lines to load seawater in its cargo holds.

At 0115 on October 14<sup>th</sup>, 15 minutes after the POLAR TEXAS departed the pilot station at Port Angeles, an operator of a tug headed southbound approaching buoy "TC" smelled a strong odor of diesel and investigated with his spot light. At 0127, the tug operator reported to the National Response Center a sheen as 1000 feet long and 200 feet wide. No other reports were made concerning the oil spill until 0714 when another tug reported an oil slick in the vicinity of buoy "TC". Between 0820 and 1210, Ecology received 12 calls from Vashon and Maury Island residents reporting oil on their beaches.

Department of Ecology and U.S. Coast Guard conducted response and cleanup actions until October 26, 2006. On-water cleanup ended October 19, 2006 but beach cleanup continued for another seven days.

---

\* Whenever "you" or "ConocoPhillips" is used in this Notice of Penalty, it refers to both Polar Tankers, Inc. and ConocoPhillips Company

Lab analysis of samples taken from the oil spill and samples of cargo carried by the T/V POLAR TEXAS resulted in a positive identification of the POLAR TEXAS as the source of the spill.

Polar Tankers, Inc. owned and operated the T/V POLAR TEXAS on or about October 13, 2004, is a wholly owned subsidiary of ConocoPhillips Company. During investigation of the spill, representatives of Polar Tankers, Inc. and ConocoPhillips Marine responded to inquiries and requests for more information. ConocoPhillips Marine was also the reference used for both Polar Tankers, Inc. and Conoco Shipping Company in ConocoPhillips Company's Oil Spill Contingency Plan for vessels submitted in compliance with RCW 88.46.060. ConocoPhillips Marine is a division of ConocoPhillips Company.

**The following violations were determined:**

**1. RCW 90.56.320**

**Unlawful for oil to enter waters -- Exceptions.**

It shall be unlawful, except under the circumstances hereafter described in this section, for oil to enter the waters of the state from any ship or any fixed or mobile facility or installation located offshore or onshore whether publicly or privately operated, regardless of the cause of the entry or fault of the person having control over the oil, or regardless of whether it be the result of intentional or negligent conduct, accident or other cause. This section shall not apply to discharges of oil in the following circumstances:

(1) The person discharging was expressly authorized to do so by the department prior to the entry of the oil into state waters; or

(2) The person discharging was authorized to do so by operation of law as provided in RCW 90.48.200.

Based on investigation, the following findings support the determination of violation:

- A. The T/V POLAR TEXAS was a ship as defined in RCW 90.56.010.
- B. Oil cargo carried by the T/V POLAR TEXAS was oil as defined in RCW 90.56.010.
- C. Waters of Puget Sound surrounding Vashon and Maury Islands are waters of the state as defined in RCW 90.56.010.
- D. Oil was discharged from the T/V POLAR TEXAS to waters of Puget Sound.
- E. The discharge was not authorized by the Department of Ecology.
- F. The crew of the T/V POLAR TEXAS were not authorized to discharge oil to waters of the state under RCW 90.48.200.
- G. ConocoPhillips and Polar Tankers, Inc. were responsible for the T/V POLAR TEXAS as owner or operator as those terms are defined in RCW 90.56.010.

**2. RCW 90.56.280**

**Duty to notify coast guard and division of emergency management of discharge.**

It shall be the duty of any person discharging oil or hazardous substances or otherwise causing, permitting, or allowing the same to enter the waters of the state, unless the discharge or entry was expressly authorized by the department prior thereto or authorized by operation of law under RCW 90.48.200, to immediately notify the coast guard and the division of emergency management. The notice to the division of emergency management within the \*department of community, trade, and economic development shall be made to the division's twenty-four hour statewide toll-free number established for reporting emergencies.

**\*Reviser's note:** The powers, duties, and functions of the department of community, trade, and economic development relating to emergency management were transferred to the state military department pursuant to 1995 c 391 § 10.

Based on investigation, the following findings support the determination of violation:

- A. ConocoPhillips and Polar Tankers, Inc. are persons as defined in RCW 90.56.010.
- B. ConocoPhillips and Polar Tankers, Inc. as the owner or operator of the T/V POLAR TEXAS discharged or otherwise caused, permitted, or allowed the discharge of oil to waters of the state.
- C. The discharge of oil from the T/V POLAR TEXAS was not authorized by the Department or operation of law under RCW 90.48.200.
- D. Neither ConocoPhillips nor Polar Tankers, Inc. notified the Emergency Management Division of the State Military Department.

### **3. RCW 90.56.270**

#### **Enforcement of contingency plans. (In relevant part.)**

(2)(a) Any person responsible or potentially responsible for a discharge, all of the agents and employees of that person, the operators of all vessels docked at an onshore or offshore facility that is a source of a discharge, and all state and local agencies shall carry out response and cleanup operations in accordance with applicable contingency plans, unless directed otherwise by the director or the coast guard. Except as provided in (b) of this subsection, the responsible party, potentially responsible parties, their agents and employees, the operators of all vessels docked at an onshore or offshore facility that is the source of the discharge, and all state and local agencies shall carry out whatever direction is given by the director in connection with the response, containment, and cleanup of the spill, if the directions are not in direct conflict with the directions of the coast guard.

Based on investigation, the following findings support the determination of violation:

- A. ConocoPhillips and Polar Tankers, Inc. are persons as defined in RCW 90.56.010.
- B. ConocoPhillips and Polar Tankers, Inc. as the owner or operator of the T/V POLAR TEXAS discharged or otherwise caused, permitted, or allowed the discharge of oil to waters of the state.
- C. ConocoPhillips had an approved Washington State Oil Spill Contingency Plan that covered discharges from the T/V POLAR TEXAS.
- D. ConocoPhillips' plan states that ConocoPhillips will respond to all spills from

ConocoPhillips Marine owned or operated vessels.

- E. The T/V POLAR TEXAS was listed in ConocoPhillips' plan as a ConocoPhillips Marine vessel.
- F. Neither ConocoPhillips nor Polar Tankers, Inc. responded to the spill from the T/V POLAR TEXAS on or about October 13, 2004.

**4. RCW 90.56.340**

**Duty to remove oil.**

It shall be the obligation of any person owning or having control over oil entering waters of the state in violation of RCW 90.56.320 to immediately collect and remove the same. If it is not feasible to collect and remove, said person shall take all practicable actions to contain, treat and disperse the same. The director shall prohibit or restrict the use of any chemicals or other dispersant or treatment materials proposed for use under this section whenever it appears to the director that use thereof would be detrimental to the public interest.


Based on investigation, the following findings support the determination of violation:

- A. ConocoPhillips and Polar Tankers, Inc. are persons as defined in RCW 90.56.010.
- B. ConocoPhillips and Polar Tankers, Inc. had control of over the oil aboard the T/V POLAR TEXAS, as owner or operator as those terms are defined in RCW 90.56.010.
- C. Oil entered the waters of the state from the T/V POLAR TEXAS in violation of RCW 90.56.320.
- D. ConocoPhillips and Polar Tankers, Inc. did not immediately collect, remove, or take all actions practicable to contain, treat or disperse the oil discharged from the T/V POLAR TEXAS.

The penalty the violations stated above is assessed under the authority granted by RCW 90.48.144.

Further, the Department determines that the discharge of oil from the T/V POLAR TEXAS was a negligent oil spill under RCW 90.56.330 which authorizes a penalty in addition to any other penalty authorized by statute. The Department determines that the crew of the T/V POLAR TEXAS failed to conduct cargo and ballasting operations in an ordinarily prudent manner so as to avoid the discharge of oil to state waters.

DATED this 13<sup>th</sup> day of October 2006 at Lacey, Washington.

  
\_\_\_\_\_  
Polly Zehm

Deputy Director  
Department of Ecology

DEPARTMENT OF ECOLOGY

In the Matter of a Stipulated Order and  
Penalty,

Polar Tankers, Inc. and ConocoPhillips  
Co.

ORDER NO. 3895

This is a Stipulated Order and Penalty (Stipulated Order) agreed to by Polar Tankers, Inc. and ConocoPhillips Co. (hereinafter "Polar Tankers"). Chapters 90.56 and 90.48 RCW authorize the Department of Ecology (Ecology) to assess penalties when it has determined that a violation of those chapters has occurred.

By signing this Stipulated Order, Polar Tankers wishes to avoid the expense of litigation by resolving any claims for monetary penalties that Ecology may have against Polar Tankers related to the violations that Ecology alleges, described below. This Stipulated Order constitutes a full and final agreement related to any monetary penalties arising out of the incidents that gave rise to this stipulation. Polar Tankers acknowledges that by entering into this Stipulated Order, it is waiving any appeal rights it may have under state law to contest the penalty.

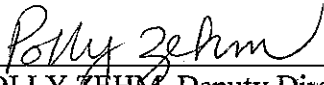
## **1.0 Penalty Payment**

Ecology now assesses a penalty of \$540,000 and Polar Tankers now agrees to pay the amount of \$540,000 no later than October 20, 2006. The penalty payment shall be mailed to: Department of Ecology, Cashiering Section, P O Box 5128, Olympia, Washington 98509-5128.

## **2.0 Signatories Authorized**


The undersigned representatives for Ecology and Polar Tankers certify that they are fully authorized by the party whom they represent to enter into the terms and conditions of this Agreement and to legally bind such party thereto.

DATED this 13th day of October, 2006.

  
POLLY ZEHRM, Deputy Director  
Department of Ecology

  
George P. McShea, Jr., Vice President,  
Polar Tankers, Inc.

KFN

  
Stephen R. Barham, President of  
Transportation, ConocoPhillips

KFN